945.

SUPREME COURT OF THE UNITED STATES.

No. 227.

JOHN C. RAGAN, PLAINTIFF IN ERROR,

vs.

LUKE AND CHARLES TIERNAN.

IN ERROR TO THE CIRCUIT COURT, UNITED STATES, FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

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[GIDEON, Print.]

L. AND C. TIERNAN
vs.
JESSE B. RAGAN et als. } On motion.

Pleas before the honorable Peter V. Daniel and Samuel J. Gholson, judges of the circuit court of the United States, held at the town of Jackson, in and for the ninth circuit and southern district of Mississippi, at the May term, in the year of our Lord one thousand eight hundred and fifty-one.

Be it remembered, that heretofore, to wit, on the eighth day of May, in the year of our Lord one thousand eight hundred and fifty-one, came John C. Ragan, by his attorneys, Yerger and Anderson, into the said circuit court, and filed the following motion herein in the words and figures, to wit:

Motion to quash the execution issued 27th January, 1851, on the judgment obtained by C. and L. Tiernan vs. Bookout, Jesse B. Ragan, et al., for $7,308 83; judgment obtained 24th May, 1839; also to quash the levy on the slaves and the marshal's return thereon, and for a perpetual stay of execution.

Said John C. Ragan moves to quash said execution on the following grounds:

1st. He is the owner and claimant of the property levied on, and he states that said judgment is discharged because said Jesse B. Ragan, in the year 1843, was duly and legally discharged from said judgment by a certificate of discharge from all his debts as a bankrupt, which operates as a discharge of said judgment; because as he avers said judgment was not of a fiduciary character, and because there was no lien attached to said judgment at the time said execution issued, nor is there any lien now.

2d. Because said slaves levied were levied on heretofore by the sheriff of Warren county, on execution issued from the circuit court of Hinds county, on a judgment obtained by vs. Jesse B. Ragan and others, which levy is not yet disposed of.

3d. Because said execution issued more than a year and a day from the rendition of the judgment.

4th. Because said judgment is null and void.

YERGER & ANDERSON,
For motion.

And afterwards, to wit, at the said May term of the court aforesaid, to wit, on the twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-one, came the said John C. Ragan, by his said attorneys, as the said L. and C. Tiernan, by their attorneys, Adams and Dixon, and the said motion being fully argued and heard, and

now understood by the court, it is ordered by the court that the said motion be overruled.

Bill of exceptions tendered by John C. Ragan.

Be it remembered, that on the 12th day of May, A. D. 1851, at the May term of the circuit court of the United States, for the southern district of Mississippi, came on to be tried the motion of John C. Ragan above mentioned; whereupon the said John C. Ragan, by his counsel, read the execution and levy, which it was the object of the motion to quash, and the record in the case, which are in the words and figures following, to wit:

LUKE AND CHARLES TIERNAN
vs.
B. R. BOOKOUT et al.

Pleas before the honorable Samuel J. Gholson, district judge of the United States, at a circuit court of the United States, in and for the ninth circuit and southern district of Mississippi, held at the town of Jackson, at the May term, in the year of our Lord one thousand eight hundred and thirty-nine.

Be it remembered, that heretofore, to wit, on the 15th day of March, 1839, the following writ of summons ad respondendum issued out of the clerk's office of the court aforesaid, in the words and figures, to wit:

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you without delay to summon Benjamin R. Bookout, Harvey Houghton, Jesse B. Ragan, and Samuel Anderson, citizens of the State of Mississippi, that they be and appear before the circuit court of the United States, to be held at the town of Jackson, in and for the district of Mississippi, on the first Monday of May next, to answer to Charles Tiernan and Luke Tiernan, who are citizens of the State of Louisiana, and partners in trade under the style of Luke and Charles Tiernan, of a plea of trespass on the case, to their damage fourteen thousand dollars; and that they do file their plea or defence with the clerk of said court, on or before the meeting of the same, or judgment will be given against them by default, and have then there this writ.

Witness the honorable Roger B. Taney, chief justice of the
[L. S.] Supreme Court of the United States, the 15th day of March, A. D. 1839, and of the independence of the United States the sixty-third.

WILLIAM BURNS, *Clerk.*

(Marshal's return.) Executed on B. R. Bookout and Samuel Anderson, 20th March, 1839; on Jesse B. Ragan, 8th April, 1839.

WM. M. GWIN, *Marshal*,
By E. H. GREER, *his deputy*.

Not found as to Houghton.

WM. M. GWIN, *Marshal*.

And on the said 15th day of March, A. D. 1839, the said plaintiffs, by W. H. and A. M. Paxtons, their attorneys, filed their declaration herein against the said defendants, in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Southern district of Mississippi, ss.

Circuit court, May term, A. D. 1839.

Luke Tiernan and Charles Tiernan, who are citizens of the State of Louisiana, and partners in trade under the style of Luke and Charles Tiernan, by their attorneys, complain of Benjamin R. Bookout, Harvey Houghton, Jesse B. Ragan, and Samuel Anderson, citizens of the State of Mississippi, resident in the southern district thereof aforesaid, who were summoned to answer them, the said plaintiffs, of a plea of trespass on the case. For that, whereas the said defendants, by the names of B. R. Bookout, H. Houghton, security, J. B. Ragan, security, and S. Anderson, heretofore, to wit, on the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and thirty-eight, at Vicksburg, to wit, in the southern district of Mississippi aforesaid, made their certain joint and several promissory note in writing, bearing date the day and year last aforesaid, and thereby then and there jointly and severally promised to pay, on the first day of October, one thousand eight hundred and thirty-eight, to the order of said plaintiffs, by the names of Luke and Charles Tiernan, the sum of six thousand nine hundred and sixty dollars and eighty cents, for value received, negotiable and payable at the Commercial and Railroad Bank of Vicksburg, and then and there delivered the said promissory note to the said plaintiffs; by means whereof the said defendants then and there became liable to pay the said plaintiffs the said sum of money, in the said promissory note specified, according to the tenor and effect of the said promissory note; and being so liable they, the said defendants, in consideration thereof, afterwards, to wit, on the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and thirty-eight, at Vicksburg, to wit, in the southern district of Mississippi aforesaid, undertook and then and there faithfully promised the said plaintiffs to pay them the said sum of money in the said promissory note specified, according to the tenor and effect thereof. And whereas, also, the said defendants afterwards, to wit, on the *on the* first day of October, in the year of our Lord one thousand eight hundred and thirty-eight, to wit, in the

district aforesaid, were indebted to the said plaintiffs in the further sum of ten thousand dollars for the work and labor, care and diligence, of the plaintiffs by them, the said plaintiffs, before that time done, performed, and bestowed in and about the business of the said defendants, and at their special instance and request. And also in the further sum of ten thousand dollars for divers goods, wares, and merchandise by the said plaintiffs before that time sold and delivered to the said defendants, and at their special instance and request. And also in the further sum of ten thousand dollars for money by the said plaintiffs before that time lent and advanced to, and paid, laid out, and expended for, the said defendants, and at their like special instance and request. And also in the further sum of ten thousand dollars for other money by the said defendants before that time had and received to and for the use of the said plaintiffs; and being so indebted they, the said defendants, in consideration thereof, afterwards, to wit, on the day and year last aforesaid, to wit, in the district aforesaid, undertook, and then and there faithfully promised the said plaintiffs to pay them the said several sums of money in this count mentioned when they, the said defendants, should be thereunto afterwards requested.

Nevertheless, the said defendants, not regarding their said several promises and undertakings, but contriving and fraudulently intending to deceive and defraud the said plaintiffs in this behalf, have not as yet paid the said several sums of money, or any or either of them, or any part thereof, to the said plaintiffs, although often requested so to do; but the said defendants, to pay them the said several sums of money, or any or either of them, or any part thereof, have hitherto wholly neglected and refused, and still do neglect and refuse, to the damage of the said plaintiffs of fourteen thousand dollars; and therefore they bring this their suit, &c.

W. H. & A. M. PAXTONS,
Plaintiffs' attorneys.

And the said defendants, by their attorneys, come and defend the wrong and injury when, &c., and say that they did not undertake or promise in manner and form as is above thereof alleged against them, and of this they put themselves upon the country, &c.

GUION, SMEDES & MARSHALL, *P. D.*

And the plaintiffs do the like.

PAXTONS, *P. Q.*

Afterwards, to wit, at the said May term of the court aforesaid, to wit, on the twenty-fourth day of May, in the year of our Lord one thousand eight hundred and thirty-nine, came the parties aforesaid, by their respective attorneys, and a jury being called, came, to wit, David N. Barrows, Thomas Johnson, J. H. W. Dearing, J. B. Raine, E. M. Avery, D. C. Hardie, J. F. Irish, Samuel Moody, Samuel Swanson, John Carter, Thomas Noble, and James Lynch, who, being em-

pannelled, tried, and sworn to speak the truth concerning the matters within contained, do say, upon their oaths, that the said defendants did undertake and promise in manner and form as is above alleged against them, and they assess the damages by reason of the premises at seven thousand three hundred and eight dollars and eighty-three cents.

Therefore, it is considered by the court that the said Luke and Charles Tiernan, plaintiffs, recover against the said Benjamin R. Bookout, Harvey Houghton, Jesse B. Ragan, and Samuel Anderson, defendants, the said sum of seven thousand three hundred and eight dollars and eighty-three cents, for their damages aforesaid, by the jurors in form aforesaid assessed, and also their costs and charges by them about their suit in this behalf expended.

And the said defendants in mercy, &c.

And afterwards, to wit, on the 24th day of June, A. D. 1839, the following execution of fieri facias issued in the words and figures, to wit:

CIRCUIT COURT OF THE UNITED STATES,
Southern district of Mississippi, sct.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you, that of the goods and chattels, lands and tenements, of Benjamin R. Bookout, Harvey Houghton, Jesse B. Ragan, and Samuel Anderson, late of your district, you cause to be made the sum of seven thousand three hundred and eight $\frac{83}{100}$ dollars, which Luke Tiernan and Charles Tiernan, (partners under the firm of Luke and Charles Tiernan,) lately in our circuit court for the district aforesaid, have recovered against them for their damages, which they have sustained by reason of the non-performance of a certain promise and assumption by the said defendants to the said Luke and Charles Tiernan lately made, with interest on the said sum at 8 per centum per annum, from the 24th day of May, 1839, until paid; also the sum of forty $91\frac{2}{3}$-100 dollars, for costs, by them about their suit in that behalf expended, whereof the said Bookout, Houghton, Ragan, and Anderson are convicted, as appears to us of record; and that you have the said moneys before the judges of our said court, on the first Monday of November next, to render unto the said plaintiffs for their damages and costs aforesaid; and have then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday of
[L. S.] May, A. D. one thousand eight hundred and thirty-nine, and in the 63d year of the independence of the United States of America.

Issued the 24th day of June, A. D. 1839.

WM. BURNS, *Clerk.*

Marshal's return.

No property to be found, out of which this fi. fa. can be made.

W. M. GWIN, *Marshal,*
By E. H GREER, *his deputy.*

And afterwards, to wit, on the 4th day of June, 1850, the following alias execution of fieri facias issued in the words and figures, to wit:

CIRCUIT COURT OF THE UNITED STATES,
Southern district of Mississippi, sct.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you, as before, &c., that of the goods and chattels, lands and tenements, of Benjamin R. Bookout, Harvey Houghton, Jesse B. Ragan, and Samuel Anderson, late of your district, you cause to be made the sum of seven thousand three hundred and eighty $\frac{88}{100}$ dollars, which Luke Tiernan and Charles Tiernan, under the firm of Luke and Charles Tiernan, lately in our circuit court for the district aforesaid have recovered against them, for their damages which they have sustained by reason of the non performance of a certain promise and assumption by the said defendants to the said plaintiffs lately made, with interest on the said sum at 8 per centum per annum, from the 24th day of May, 1839, until paid; also the sum of fifty-three $\frac{50}{100}$ dollars, for costs by them about their suit in that behalf expended, whereof the said defendants are convicted, as appears to us of record; and that you have the said moneys before the judges of our said court on the first Monday of November next, to render to the said plaintiffs for their damages and costs aforesaid; and have then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday of
[L. S.] May, A. D. 1850, and in the 74th year of the independence of the United States of America.

Issued the 4th day of June, 1850.

W. H. BROWN, *Clerk*,
Per CHS. H. ROGERS, *D. C.*

Marshal's return.

The within named defendants *hath* no goods or chattels, lands or tenements, within my district, whereof I can make the sum within mentioned, or any part thereof. 4th November, 1850.

FIELDING DAVIS,
Marshal, southern district, Miss.

And on the 27th day of January, A. D. 1851, the following pluries execution of fieri facias issued, [in] the words and figures, to wit:

CIRCUIT COURT OF THE UNITED STATES,
Southern district of Mississippi, sct.

The President of the United States, to the marshal of the southern district of Mississippi, greeting:

We command you, as very often before, &c., that of the goods and chattels, lands and tenements, of Benjamin R. Bookout, Harvey

Houghton, Jesse B. Ragan, and Samuel Anderson, late of your district, you cause to be made the sum of seven thousand three hundred and eight $\frac{83}{100}$ dollars, which Luke Tiernan and Charles Tiernan, under the firm of Luke and Charles Tiernan, lately in our circuit court for the district aforesaid have recovered against them for their damages, which they have sustained by reason of the non-performance of a certain promise and assumption by the said defendants to the said plaintiffs lately made, with interest on the said sum at 8 per centum per annum, from the 24th day of May, 1839, until paid; also the sum of sixty-two $83\frac{1}{3}$-100 dollars, for costs by them about their suit in that behalf expended, whereof the said defendants are convicted, as appears *of* us of record; and that you have the said moneys before the judges of our said court on the first Monday of May next, to render to said plaintiffs for their damages and costs aforesaid; and have then there this writ.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Jackson, the first Monday of
[L. S.] November, A. D. 1850, and in the 75th year of the independence of the United States of America.

Issued the 27th day of January, 1851.

W. H. BROWN, *Clerk*,
Per CHS. H. ROGERS, *D. C.*

Marshal's return.

Levied the 23d April, 1851, on all the right, title, and interest of the defendant, Regan, to the following negro slaves, to wit:

Caroline, valued at $400; Patsey, valued at $400; Fatima, valued at $300; Julia, $500; Nancy, $400; Rose, $400; Jerry, $600; Charles, $200; William, $500; Preston, $500; Little Mose, $500; George, $500; John, $500; Abram, $500; Joseph, $300; Martin, $600; Israel, $500; Tom, $400; Jim, $300; Clement, $300; Moses, $200; Anna, $200; Jasper, $300; Hilliard, $200; Frances, $300; Fanny, $200; Adelia, $200; Ellen, $500; Green, $300; Maria, $400; Celia, $400; Susan, $400; Victoria, $300; Mourning, 200; Big Mary, $400; Little Mary, $400; Lucretia, $400; Sena, $400; Caty, $400; Matilda, $400; Harriet, $400; Augustus, $500; Rose, $400; Betsey, $400; Hetty, $500; Hercules, $200; Daniel, $400; Henry, $300; and Emeline, $400.

The above named slaves were duly advertised according to law, to be sold on the 5th day of May, A. D. 1851, before the court-house door in the city of Vicksburg, and J. C. Ragan then and there appeared and claimed said slaves, and made oath that the said property levied on was not the property of the defendant, Jesse B. Regan, but in him, the said J. C. Ragan, trustee, &c., and John C. Ragan, (individually;) and the said John C. Ragan gave bond for the trial of the right thereof, with A. C. Downs and Samuel Linn, securities; which said bond is herewith returned to court, and the slaves mentioned in said levy to the claimant, John C. Ragan.

FIELDING DAVIS,
Marshal, southern district, Miss.

Said John C. Ragan then offered to read in evidence the certificate of bankruptcy of Jesse B. Ragan; which is in the words and figures following:

At a district court of the United States, in and for the southern district of Mississippi, sitting in bankruptcy, at Jackson, on the twentieth day of February, A. D. one thousand eight hundred and forty-three—

Present, the honorable Samuel J. Gholson, district judge.

In the matter of the petition of Jesse B. Ragan, of Warren county, a bankrupt, to be discharged from his debts, No. 384.

Whereas, on the eighth day of July, 1842, the above named Jesse B. Ragan filed his petition in this court, praying that the said Jesse B. Ragan might be declared a bankrupt, and be discharged from his debts, and was, on the eighth day of November, 1842, by the decree of this court, duly declared a bankrupt.

Now, at this day, to wit, on the twentieth day of February, 1843, upon reading the said petition, with the schedule and inventory thereunto annexed, together with the said decree above mentioned, and due proof of the publication of notice of the final hearing of the said petition, it appearing that the said Jesse B. Ragan has fully complied with the provisions of the act of Congress, entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved August 19th, 1841, and is entitled to be discharged from his debts.

It is therefore ordered, adjudged, and decreed, that the said Jesse B. Ragan be, and he hereby is, by virtue of the act aforesaid, fully and entirely discharged from all his debts.

In testimony whereof, I, Samuel J. Gholson, judge of the district court of the United States, for said district, have signed these [L. S.] presents, and caused the seal of said court to be hereunto affixed.

S. J. GHOLSON, *district judge.*

Test: WM. BURNS,
Clerk of the southern district of Mississippi.

UNITED STATES OF AMERICA,
Southern district of Mississippi.

District court, United States.

I, William H. Brown, clerk of said district court, do hereby certify, that the foregoing is a true and correct copy of the decree of final discharge in bankruptcy of Jesse B. Ragan, of Warren county, in said district, as the same now remains of record in my office.

In testimony whereof I have hereunto set my hand and affixed the [L. S.] seal of said court, at Jackson, this 26th day of April, A. D. 1851.

W. H. BROWN, *Clerk.*

But the court refused to permit the same to be read. He then offered to read the following affidavit, to wit:

"Jesse B. Ragan makes oath that the debt for which the judgment of C. & L. Tiernan was obtained against him and others in this court, on the 24th May, 1839, for $7,308 $\frac{88}{100}$ dollars, was not a fiduciary debt, or a trust debt. He was merely a surety for the maker of the note, whose name is first signed on it; which will appear from the note itself, on file among the papers in said cause.

"J. B. RAGAN.

"Sworn to and subscribed, in open court, May 10, 1851.

"W. H. BROWN, *Clerk.*"

But the court refused to hear the same. He then offered to read to the court the following deed, to wit:

"This indenture, made and entered into this 6th day of September, A. D. 1850, between Jesse B. Ragan and Sarah K. Ragan, his wife, of the first part, and John C. Ragan of the second part, witnesseth, that whereas the said Sarah K. Ragan is possessed of real and personal property, in her own right, which she is desirous of settling in the manner hereinafter set forth, therefore, for and in consideration of the premises, and for and in consideration of the sum of five dollars, to her in hand paid by the said John C. Ragan, the receipt of which she hereby acknowledges, the said parties of the first part have bargained, sold, transferred, and conveyed, and by these presents do bargain, sell, transfer, and convey, to the said John C. Ragan and his heirs, all the property, of every kind and description, owned and possessed by the said Sarah K. Ragan, consisting principally of a plantation, slaves, planting utensils, horses, mules, stock, &c., situate and lying in Warren county, State of Mississippi; to have and to hold the said property to the said John C. Ragan and his heirs forever. Upon trust, nevertheless, and for the following uses, purposes, and trusts, and for no other, that is to say, he is to hold said property in trust for the sole use and benefit of the said Sarah K. Ragan during her natural life, with power on her part to control and possess the same and the proceeds thereof; and if her said husband, Jesse B. Ragan, survives her, then to be held in trust for the term of his natural life; the annual proceeds or crops of said property, after her death, and before the death of the said Jesse B. Ragan, that is to say, during his lifetime, to be appropriated as follows: 1st. The plantation is to be carried on under the direction and management of said Jesse B. Ragan, and as agent for the trustee; and the expenses and supplies of the place, and the expenses of educating the children thoroughly, to be first paid. 2d. The said Jesse B. Ragan is to be liberally and fully supported without stinting him, he himself to be the judge of what is necessary to support him, during his natural life. 3d. The father of said Sarah K. Ragan is to be fully and liberally supported during his life, so that he may want for nothing. 4th. Out of the first available proceeds left, after the preced-

ing trusts are satisfied, six thousand dollars are to be paid to the said John C. Ragan. 5th. After the payment of the said $6,000 to the said John C. Ragan, then six thousand dollars is to be paid to Laura L. Buckner. After payment of that, then $6,000 to Wiley B. Ragan. After payment of that sum, then $6,000 to Sarah A. Ragan. After payment of that sum, then six thousand dollars to Jesse S. Ragan; and after payment of that sum, then six thousand dollars to Ashburn B. Ragan; after payment of the said several sums above, the balance of the proceeds or crops accruing before the death of said Jesse B. Ragan, to be annually distributed as follows:

$\frac{1}{6}$ (one-twentieth) part to Mrs. Austin, daughter of said Sarah K. Ragan, and the remainder of said annual crops or proceeds to be equally and annually divided between Amanda Stone, John C. Ragan, Laura L. Buckner, Wiley B. Ragan, Sarah A. Ragan, Jesse S. Ragan, and Ashburn B. Ragan. 5th. After the death of the said Jesse B. Ragan, or after the death of said Sarah K. Ragan, if she should survive the said Jesse B., all of said property is to be divided as follows:

One-sixteenth part to Mrs. Austin, daughter of said Sarah K. and Jesse B. Ragan, for her life, and then to her children after her death, and the remainder of the property, after deducting said one-sixteenth part, to be equally divided between Mrs. Amanda Stone, John C. Ragan, Laura L. Buckner, Wiley B. Ragan, Sarah A. Ragan, Jesse S. Ragan, and Ashburn B. Ragan, and their heirs forever. The said Sarah K. having implicit [confidence] in the management and integrity of her husband, directs that he shall manage said property during his life for the interest of all concerned. The said parties of the first part hereby reserving the power to the said Sarah K. Ragan to revoke the uses and trusts above declared, or such of them as she thinks proper, and appoint by deed new trusts, provided that the [said] Sarah K. Ragan in executing said power of revocation shall do it by deed jointly with her husband, if he is alive, and acknowledged as deeds by married women are acknowledged, or by her own deed, if her husband dies before such revocation.

In testimony whereof the said parties have hereto signed their names, and affixed their seals the day and year above written.

J. B. RAGAN, [SEAL.]
SARAH K. RAGAN. [SEAL.]

The following words were interlined before [the] deed was executed:

1st page, 2d line from bottom, the word "annual," and the words "or crops."

On 2d page, 4th line from top, the words "and the expenses of educating the children thoroughly."

On 3d page, 3d line from top, the words "for her life and then to her children."

On 2d page, line 7 from bottom, the words "one-twentieth;" same page, line 5 from bottom, the words "and annually."

STATE OF MISSISSIPPI, *Warren county.*

Personally appeared before me, Simeon L. George, a justice of the peace for the State and county aforesaid, the within named Jessee B. Ragan and Sarah K. Ragan, his wife, who severally acknowledged that they signed, sealed, and delivered the foregoing deed as their act and deed, for the purposes therein named. And the said Sarah K. Ragan, wife of the said Jesse B. Ragan, having been examined by me privily and separate and apart from her husband, acknowledged that she signed, sealed, and delivered said deed freely and voluntarily as her voluntary act and deed, without any fear, threats, or compulsion of her said husband.

Given under my hand and seal, this 6th day of September, 1850.

SIMEON L. GEORGE, [SEAL.]
Justice of the peace.

THE STATE OF MISSISSIPPI,
Warren county, ss.

I, Edward B. Scarborough, clerk of the probate court of said county, do hereby certify, that the foregoing deed and certificate were this day filed for record in my office. Whereupon I have made the same of record in book X, pages 157 and 158.

[SEAL.] Given under my hand and seal of office, this 4th day of April, A. D. 1851.

E. B. SCARBOROUGH, *Clerk.*

THE STATE OF MISSISSIPPI,
Warren county, ss.

I, Edward B. Scarborough, clerk of the probate court in and for said county, do hereby certify, that the foregoing deed and certificates have been correctly copied from book X, pages 157 and 158, of the record of deeds in my office.

[L. S.] Given under my hand and the seal of said court, at Vicksburg, this 25th day of April, A. D. 1851.

E. B. SCARBOROUGH, *Clerk.*

But the court refused to permit the same to be read. And this being all the testimony offered, the said John C. Ragan moved the court to quash the said execution and levy, but the court refused to quash the same. To the opinion of the court refusing to hear any of the said testimony offered by the said Ragan, and overruling his said motion to quash, he, the said John C., then and there excepted, and prayed that this his bill of exceptions be signed, sealed, and made a part of the record, which is done.

P. V. DANIEL, [SEAL.]
S. J. GHOLSON. [SEAL.]

Copy of writ of error bond.

UNITED STATES OF AMERICA,
Southern district of Mississippi, sct.

Know all men by these presents, that we, John C. Ragan and Alfred C. Downs, are held and firmly [bound unto] Luke Tiernan and Charles Tiernan in the just and full sum of three thousand dollars lawful money of the United States, to be paid to the said Luke Tiernan and Charles Tiernan, their lawful attorneys, executors, administrators or assigns; for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated the 14th day of June, A. D. one thousand eight hundred and fifty-one.

The condition of this obligation is such, that whereas, at a term of the circuit court of the United States, for the southern district of Mississippi, commenced and held at the city of Jackson on the first Monday of May, A. D. 1851, judgment was rendered by said court in favor of said Luke Tiernan and Charles Tiernan against the said John C. Ragan on a certain motion made by the said John C. Ragan to quash an execution issued on the 27th January, 1851, on a judgment obtained 24th May, A. D. 1839, against Bookout, Jesse B. Ragan and others, for the sum of $7,308 83 in favor of said Luke and Charles Tiernan; also to quash the levy on the slaves, and return of the marshal thereon, and for a perpetual stay of execution; and the said John C. Ragan hath sued out a writ of error from the Supreme Court of the United States, to reverse said judgment.

Now, if the said John C. Ragan shall prosecute his said writ of error to effect, and shall well and truly pay and satisfy all such damages, interest and costs, as the said Supreme Court of the United States shall adjudge in the premises, if he, the said John C. Ragan, shall fail to make his plea good, then and in that case this obligation to be void, otherwise to remain in full force and virtue.

J. C. RAGAN, [SEAL.]
A. C. DOWNS. [SEAL.]

UNITED STATES OF AMERICA, *ss.*

The President of the United States, to the judges of the circuit court of the United States, for the southern district of Mississippi, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Luke and Charles Tiernan, plaintiffs, vs. John C. Ragan, defendant, a manifest error hath happened to the great damage of the said John C. Ragan, defendant, as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in his behalf, do command you, if judgment be therein given, that then, un-

der your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right, and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of May, in the year of our [SEAL.] Lord one thousand eight hundred and fifty-one, and of the independence of the United States the 75th.

Issued the 16th day of June, A. D. 1851.

W. H. BROWN,
Clerk circuit court, U. S., southern district of Mississippi.

UNITED STATES OF AMERICA, *ss.*

To Luke Tiernan and Charles Tiernan, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be held at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the ninth circuit and southern district of Mississippi, wherein John C. Ragan is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Samuel J. Gholson, one of the judges of the circuit court of the United States, for the southern district of Mississippi, this 16th day of June, in the year of our Lord one thousand eight hundred and fifty-one, and in the 75th year of the independence of the United States.

S. J. GHOLSON.

Executed on Adams and Dixon, attorneys of L. and C. Tiernan, 4th November, 1851.

F. DAVIS, *Marshal*,
By R. FLETCHER, *D. M.*

Service - - - - -	$2 00
Copy - - - - -	50
E. and R. - - - -	50
	$3 00